IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 18123 of 2007(G)

IA.781/2006 of DISTRICT COURT, PALAKKAD
EP 253/05 IN OS.91/2003 of MUNSIFF COURT, CHITTUR

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PETITIONER:

RADHAKRISHNAN, S/O KANDAMUTHAN,
AGED 45 YEARS, RESIDING AT NATTUKAL VALLYA
VATAMPATHY VILLAGE, CHITTUR TALUK.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL
SRI.BINOY VASUDEVAN

RESPONDENT:

SELVAM, S/O RAJAPPAN,
AGED 41 YEARS, POLLACHI ROAD,
VALLIYAVALLAMPALLY VILLAGE, CHITTUR TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.(C) No. 18123 OF 2007 G
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Dated this the 15th June, 2007

J U D G M E N T

This writ petition is filed seeking a direction to the District Court, Palakkad, to pass a judgment and decree consequent to the dismissal of I.A. 781/2006 in unnumbered Appeal of 2007 to enable the petitioner to prefer a second appeal. The writ petitioner filed an appeal before the District Court with a petition to condone the delay of 698 days. The court was dissatisfied with the reasons alleged in the petition for condoning the delay and therefore dismissed the application. So, as a corollary the District Judge should have dismissed the appeal as well and I am informed that it is not done. In order to enable a party to file a second appeal as per law the delay condonation application as well as the appeal has to be dismissed. Since I am informed it is not done, a direction is given to the District Judge to dispose of the appeal itself in the light of his order in I.A. No. 781/06. Since it is apprehended that execution proceedings will be further pursued I direct the

executing court not to proceed with the execution petition E.P. No. 253/05 for a period of six weeks.

The writ petition is disposed of accordingly.

M.N. KRISHNAN
JUDGE

jan/